



LAW OFFICES OF  
**SYNNESTVEDT & LECHNER LLP**  
2600 ARAMARK TOWER  
1101 MARKET STREET  
PHILADELPHIA, PA 19107-2950  
TELEPHONE (215) 923-4466  
FACSIMILE (215) 923-2189  
E-MAIL [synnlech@synnlech.com](mailto:synnlech@synnlech.com)  
[www.synnlech.com](http://www.synnlech.com)  
February 15, 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of J. Huston, P. Wils, Q. Zhu, O. Laurent,  
W. Marasco, & D. Scherman

Application No. 09/888,721

Group No. 1632


Filed June 25, 2001

Examiner L. Lieto

Bioengineered Vehicles for Targeted Nucleic Acid Delivery  
(Atty. Docket No. P 23,611-A USA)

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on Tuesday, February 15, 2005.

  
Kathleen P. Higgins

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION  
UNDER 37 CFR §1.146 OF THE EXAMINER'S  
ELECTION OF SPECIES REQUIREMENT, DATED DECEMBER 17, 2004**

Sir:

In response to the Examiner's Election of Species Requirement of  
December 17, 2004, applicants elect provisionally, with traverse, the species of

the invention in which the gene delivery compound is one which comprises a single chain binding polypeptide and a nucleic acid binding moiety (Species (A)) to which the claims shall be restricted should no generic claim be finally held allowable.

The Examiner required also that the above species be defined further by the marker to be bound thereby, the type of nucleic acid binding moiety, the therapeutic gene to be bound thereby, and the conjugate thereof. Applicants define further the above species as one in which the marker to be bound is erbB2, the nucleic acid binding moiety is salmon protamine, the therapeutic gene to be bound is a tumor suppressor gene, and the conjugate is C6ML3-9 sFv'-SP.

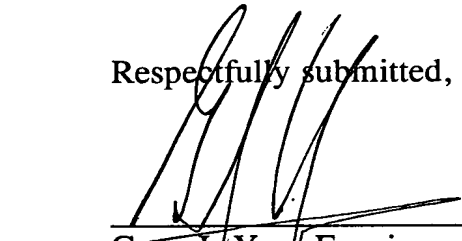
The claims which read upon the above species as further defined are Claims 1 to 22, 26, and 29.

Traversal of the Examiner's election of species requirement is with respect to species (A) to (E). Species (A) is defined by the Examiner as a gene delivery compound comprising a single chain binding polypeptide and a nucleic acid binding moiety. Species (B) to (E) are defined by the Examiner as being gene delivery compounds comprising the above elements and an additional effector segment. Accordingly, Species (A) is generic to Species (A) to (E). The species are, therefore, not mutually exclusive as required under Patent Office practice (see MPEP §806.4(f)).

In view of the foregoing, an early and favorable Action is requested respectfully.

This Request is accompanied by a Petition for Extension of Time to respond to the Examiner's Action.

Respectfully submitted,



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Gene J. Yao, Esquire  
Reg. No. 47,193  
Attorney for Applicants

Synnestvedt & Lechner LLP  
Suite 2600 Aramark Tower  
1101 Market Street  
Philadelphia, PA 19107-2950  
(215) 923-4466

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